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TO DIRECTOR EXREG CONTR	OL NUMBER	4735		KCC CONTROL NU IG-10089-0	JMBER 02	
D/DIR D, D SECRETARIAT	Daw 11/26	,	ACTIO	APPROVAL	EXREG SUSPENS	E
Quarterly Report to the Intelligence				SIGNATURE	KCC SUSPENSE	
on NSA Activities—Fourth Quarte	_			INFORMATION	ELEMENT SUSPE	NSE
DISTRIBUTION						
PURPOSE: (U//FOUO) To President's Foreign Intelligence Add for Intelligence Oversight (ATSD(IC) BACKGROUND: (U//FOU)	visory Boar O)), NSA's q	d, via the A uarterly rep	ssist port (ant to the S on its intelli	ecretary of gence activi	Defense ties.
require Intelligence Community age and Inspectors General, respectively intelligence activities that they have Order or Presidential Directive. The known to the Inspector General and Agency heads are responsible for reknown to them, unless the Presidentian informed. The Director's signature known to him.	ency heads y, to report e reason to le e enclosed i I General C porting sep at has specif	and Intellig to the IOB pelieve may nemorandu ounsel. Per arately any ically instr	gence on a y be u im co r PIC y add:	Community quarterly be unlawful or of the control o	y General C asis concern contrary to I ortable active August 19 rtable activitioard is not t	ounsels ing Executive vities 82, ties o be
RECOMMENDATION: (U//FOUO) Director sign the enclosed memorandum.						
Approved for Release by NSA on 12-22-2014, FOIA Case # 70809 (Litigation) DECLASSIFY UPON REMOVAL OF THE ENCLOSURE(S)						
COORDINATION/APPROVAL						
OFFICE NAME AND DATE	SECURE PHONE	OFFICE		NAME AND DA	TE	SECURE PHONE
GC Robert Deitz 101 11 25	5548s	/				
AGC(O)	3121s					
IG Joel F. Brenner	7 3544s					
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ORIGINATOR	7		HONE (S		DATE PREPARED 19 Novemb	

DERIVED FROM: NSA/CSSM 123-2 DATED: 24 February 1998 DECLASSIFY ON: X1 FORM A6796 FEB 94 NSN: 7540-FM-001-5465

SECURITY CLASSIFICATION

TOP SECRET//COMINT//TALENT-KEYHOLE//NOFORN//X1

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NATIONAL SECURITY AGENCY CENTRAL SECURITY SERVICE

FORT GEORGE G. MEADE, MARYLAND 20755-6000

4 December 2002

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THRU: Assistant to the Secretary of Defense (Intelligence Oversight)

SUBJECT: (U/#FOUO) Report to the Intelligence Oversight Board on NSA Activities - INFORMATION MEMORANDUM

(U//FOUO) Except as previously reported to you or the President, or otherwise stated in the enclosure, we have no reason to believe that any intelligence activities of the National Security Agency during the quarter ending 30 September 2002 were unlawful or contrary to Executive Order or Presidential Directive, and thus required to be reported pursuant to Section 1.7.(d) of Executive Order 12333.

(U/FOUO) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by means of inspections, surveys, training, review of directives and guidelines, and advice and counsel. These activities and other data requested by the Board or members of the staff of the Assistant to the Secretary of Defense (Intelligence Oversight) are described in the enclosure.

JOEL F. BRENNER

Inspector General

ROBERT L. DEITZ General Counsel

(U//FOUO)—I concur in the report of the Inspector General and the General Counsel and hereby make it our combined report.

MICHAEL V. HAYDEN

Lieutenant General, USAF

Director, NSA/Chief, CSS

Encl:

a/s

This Memorandum is Unclassified Upon Removal of Enclosure DERIVED FROM: NSA/CSSM 123-2 DATED: 24 FEB 98

DECLASSIFY ON: X1

TOP SECRET//COMINT/TALENT KEYHOLE//NOFORN//X1

(b) (1) (b) (3)-P.L. 86-36 (b) (3)-50 USC 3024(i)

1. (U) INSPECTOR GENERAL ACTIVITIES

a. (C//SI) During this quarter, the Office of Inspector General (OIG) reviewed various intelligence activities of the National Security Agency/Central Security Service (NSA/CSS) to determine whether they were conducted in accordance with applicable statutes, Executive Orders, Attorney General procedures, and DoD and internal directives. With few exceptions, the issues presented were routine and indicated that the operating elements understand the restrictions on NSA/CSS activities.

b. (S//TK) The OIG received an email from the Inspector General
in which he said that an unidentified employee who had
attended a town meeting atalleged that during the
meeting, an NSA employee expressed concern that may have been processing
communications signals in violation of USSID-18. It was further alleged that a high
ranking official of NSA, the SIGINT Director, was present and not only failed to stop
or investigate the violations, but also encouraged a more liberal interpretation of
USSID-18. The OIG inquiry into this matter determined that the allegations were
not substantiated. Numerous interviews with persons present at the town meeting
support the conclusion that no violation of USSID-18 was discussed, that the SIGINT
Director was not present at the meeting, and that no person was encouraged to
violate, or give a new and unauthorized interpretation to USSID-18. The OIG
inquiry final report is attached as Enclosure A. (b)(3)-P.L. 86-36
c. (S//TK) The OIG received a request from the Inspector General,
to conduct an inquiry into the alleged improper destruction
of Intelligence Oversight (IO) quarterly report files atto determine whether the
records were destroyed in accordance with applicable laws and regulations. Our
inquiry concluded that no laws or regulations were violated in the matter, and that
current quarterly report records-keeping practices atare consistent with those

2. (U) GENERAL COUNSEL ACTIVITIES

a. (C//SI) The OGC reviewed various intelligence activities of the NSA/CSS to determine whether they were conducted in accordance with applicable statutes, Executive Orders, Attorney General procedures, and DoD and internal directives. The OGC advised Agency elements on a number of questions, including the collection and dissemination of communications of or concerning U.S. persons; the

of other field sites. The OIG inquiry final report is attached as Enclosure B.

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TOP SECREFICOMINT/TALENT KEYHOLE//NOFORN//X1

reporting of possible violations of federal criminal law contained in SIGINT product; the testing of electronic equipment; and the applicability of the FISA. With few exceptions, the issues presented were routine and indicated that the operating elements understand the restrictions on NSA/CSS activities. The OGC did not file any reports with the Intelligence Oversight Board during this quarter.

3. (U) SIGINT ACTIVITIES

	(b) (1)
	a. (S//SI) Collection Against U.S. Persons (b) (3) -P.L. 86-36
	(b) (3) -18 USC 798
	(b)(3)-50 USC 3024(i)
	(1) (U) Intentional
	(S//SI) During this quarter, the DIRNSA granted approval for consensual
	collection against persons; DIRNSA-approved consensual collection
	against U.S. persons was routinely terminated this quarter.
	(S//SI) The Attornev General granted authority to collect the
	communications ofU.S. persons during this quarter. However,
	collection was suspended on one of the individuals due to his arrest in
	and subsequent extradition to the United States where he is now in
	detention.
o) (3)-P.L	, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
-	(2) (U) Unintentional
**	-(S//SI//NF) This quarter, unintentional retrieval strategies using the
	raw traffic files
	resulted inncidents against U.S. persons. All incidents were reported to
	responsible oversight officials and corrective actions were taken.
	b. (U// FOUO) Dissemination of U.S. Identities
	(1) (U) Intentional
	-(S//SI) In accordance with section 7 of USSID 18, U.S. identities were
	disseminated. The following table shows the justification and the number of instances of dissemination: in the "Unmasked" column, the U.S. identity was
	revealed in a serialized end product; in the "User Requested" column, a U.S.

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identity was released to a user at the user's request.

- TOP SECRET//COMINT/TALENT KEYHOLE//NOFORN//X1

sary gn Official ational narcotics nal activity Government Official TOTAL tentional ng this quarter, SIGI identities of U.S. person			(b) (1) (b) (3)-P.L. 86	
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CTIVITIES	1			
During this quarter,			<u> </u>	
Zarang unto quantony				
		ded with USSID 18 t	raining.	
z integrees at NSA inc	iudea			
			which a	
aw Enforcement			(b) (3)-P.L.	86-3
J*		Г		
(b)(1) (b)(3)-P.L. 86-	-36 D .	Dated: 24 l	Feb 98	
	In accordance was provided electrical and the provided support to this support included (b) (1) (b) (3) -P.L. 86-(b) (3) -18 USC 7	In addition, a versased was provided electronically to aw Enforcement The provided support to This support included	In addition, a verbatim transcript on ased was provided electronically to the aw Enforcement The provided support to this support included (b) (1) (b) (3) -P.L. 86-36 (b) (3) -18 USC 798 Datal 24	In addition, a verbatim transcript on which a assed was provided electronically to the (b) (3) -P.L. aw Enforcement The provided support to this support included (b) (1) (b) (3) -P.L. 86-36 DRV FM: NSA/CSSM 123-2 (b) (3) -18 USC 798 Dated: 24 Feb 98

(b) (1) (b) (3)-P.L. 86-36 (b) (3)-18 USC 798 (b) (3)-50 USC 3024(i)
(TO VOVAIT) to a describe the Determinant of FICA Device of Intercent
_ (TS//SI//NF) Inadvertent Retention of FISA-Derived Intercept
(TS//SI//NF) While cleaning out old files, analysts in a SID organization discovered several pieces of FISA-derived intercept, dated between that had been inadvertently filed and retained. (b) (1) The intercept was destroyed immediately. All division personnel who handle FISA-derived intercept have been reminded of the FISA minimization procedures as outlined in USSID-18 and have been counseled on the proper procedures for handling and disseminating intercept and the restrictions against retaining such intercept. Procedures for handling this material within the division have been streamlined to minimize the possibility that such an incident will reoccur.
(U) Working Aids (U) No new working aids were developed during the quarter.
(U) Databases
(S//SI) Numerous branches in
consistent with OGC guidance
Only information that is essential to understanding the intelligence is included.
Additionally, many Office of Drive and Interest
Additionally, many Offices of Primary Interest in order to ensure that they are not collected
against or named in product.
(b)(1) (b)(3)-P.L. 86-36

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NATIONAL SECURITY AGENCY CENTRAL SECURITY SERVICE

FORT GEORGE G. MEADE, MARYLAND 20755-6000

(b) (3)-P.L. 86-36

23 October 2002

	MEMORANDUM FOR INSPECTOR GENERAL,	
77 T 14 L	SUBJECT: Inquiry Into Alleged USSID 18 Violation Disclosed During a Town Meeting	
(b) (1) (b) (3) -P.L. 86-	-36 at (S//TK)	
(b) $(3) - 50$ USC 3	3024(i)	
	(S//TK) This memorandum responds to your email message to Joel Brenner, our	
The state of the s	Inspector General, dated 20 September 2002, retransmitting a message from your staff dated 9 September 2002, which we had not previously received.	
	Attached to the message	
	was a one-page "Summary of Alleged Violation of USSID 18/E.O. 12333." The	
	Summary states in relevant part: (b) (3)-P.L. 8	36-36
	Disclosure of the alleged violation occurred during a town	
	meeting at while the Director, SIGINT/NSA	
	served as guest speaker. During the town meeting, it was observed that	
	an NSA employee assigned to the voiced concern that was processing	
	communications signals that (b) (3)-P.L. 8	36-36
	and occasionally needed to exceed the two-hour maximum	
	timeline allowed under USSID 18. Reportedly, the Director, SIGINT	
	responded that USSID 18 authorizes two hours - or the time necessary to determine the nature and amount of foreign intelligence included in the	
	communications.	
	The gist of the allegation is (1) that was processing communications" signals in violation of USSID 18 and (2) that a high-ranking official of NSA, the SIGINT Director,	
	communications in the plural, thus suggesting more than one violation), but also (1) (b) (3)-P.L. 86-36	
	encouraged a more liberal interpretation of USSID 18. (b) (3) -50 USC 3024 (i)
(b) (3) -P.L.	(S//TK) I infer that this is the same issue you raised when Mr. Brenner and	
	our Inspections Chief, visited you You then advised	
	them of an unspecified violation at but provided no details.	
	-(S//TK) We have not been made privy to the identity of the person who witnessed	
'n	these events or made this allegation. We have therefore not been able to interview your	
:	source of information, assuming it is not one of the persons mentioned in the Summary.	
	you sent Mr. Brenner a further email message stating	
	that the "referenced meeting took place in , who still works at the (3)-P.L.	86-36
	may have knowledge of the facts." Fortunately, is now	
/b\ /1\		

⁽b) (1) (b) (3)-P.L. 86-36

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(b)	(1)	
(b)	(3)-P.L. 86-36	
(b)	(3)-50 USC 3024(i)	

	employed here at NSAW, and was available by secure telephone, and we were
	able to interview both of them immediately. Let me share with you what they say about
	these allegations.
(b)(3)-P.L.	
(D) (2) E • Ti	
1 the same	(S//TK) told us: "First, I would like to state for the record my outrage
. \ '!!!	[her italics] at the suggestion that I witnessed a violation of USSID 18 at and did
	not report it. If I were witness to such a violation, then I certainly would not try to report
	such an infraction indirectly via an informal question at a town meeting." According to
/	the question she asked was directed to what would happen if the terms of
\	USSID 18 unduly proved constraining. She added that in her opinion, is in fact
\	extremely rigorous in its efforts to ensure that USSID 18 and the

\	are upheld."
\	
1	(S//TK) said that her question to DIRNSA was inspired, in part, by
1	comments made by NSA Deputy Director, Mr. William Black, during
	We viewed a copy of the
	videotape of Mr. Black's address during which he commented on the challenges of doing
	business in the world of new technology using documents and authorities written in an
	"analog world." He stated, "If a policy is in your way, it is incumbent upon you to let us
	know what they are." He could not reasonably be understood to have "encouraged a
	more liberal interpretation of LICCID 10 "
	(b) (1) (b) (3) -P.L. 86-36
VIII WALL	(b) (2) 50 fred 2024/5)
)(3)-P.L. 8	(not as your source informed you). She stated that she was present at the town
The same of the sa	meeting and remembers question essentially as represented it to
//	ustold us that she has no knowledge of any USSID 18 violation by a
	employee.
	(CUTIC) In the interest of conduction a thorough investigation was a second
	(S//TK) In the interest of conducting a thorough investigation, we contacted
	who was present at the meeting. She told us that the
\	Director, NSA was at the meeting, but that the NSA SIGINT Director, was not.
	did not remember question. She added, however, that said she
	certainly would have remembered if someone at the meeting had disclosed a possible
	USSID 18 violation. (b) (3) -P.L. 86-36
	—(S//TK) We also contacted several employees who had attended the
	meeting. Those who remembered question recalled it as
	represented it to us. None of those persons took her comments as a disclosure of a
	USSID 18 violation.
	To violation.
	(II) We therefore find the allegation unsubstantiated
	(U) We therefore find the allegation unsubstantiated.
	(S/TV)-Our office takes such allows in a second such as a
	_(S//TK) Our office takes such allegations very seriously. Indeed, we encourage
	and to some degree depend on volunteered information to supplement the information we
	develop through our own initiative, and we are grateful for your assistance in bringing
	this particular allegation to our attention, regardless of the fact that we find it

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unsubstantiated. We share your deep concern that SIGINT activities must be conducted both efficiently and in strict conformity with the nation's laws and Constitution; and further, that we must remain constantly vigilant in this area. Early in Mr. Brenner's tenure, our Director, Lt. Gen. Michael V. Hayden, gave him the opportunity to make this point to the entire NSA workforce, using the Agency's internal television network, and he did so on 22 July 2002 (http://www.n.nsa/IG/briefings.html).

(U) Thank you again for bringing this matter to our attention.

	1	06 06
	(b) (3) -P.L.	86-36
	weeks with the second to the s	
Senior Assistant Inspector General	_	
for		
Investigations		





SECRET//TK//X1

NATIONAL SECURITY AGENCY CENTRAL SECURITY SERVICE FORT GEORGE G. MEADE, MARYLAND 20755-6000

23 October 2002

MEMORANDUM FOR INSPECTOR GENERAL. (b)-(3)	-P.L.	86-3
SUBJECT: Inquiry Into the Destruction of Intelligence Oversight (IO) Quarterly Report (QR) Files (U) – INFORMATION MEMORANDUM		
(S//TK) This memorandum responds to your request that the NSA/CSS Office of Inspector General (OIG) conduct an inquiry into the destruction of Intelligence Oversight (IO) Quarterly Report (QR) files at You recommended that the OIG conduct an inquiry to determine whether the records were destroyed in accordance with applicable laws and regulations, and to determine the circumstances surrounding the change in policy no longer requiring the retention of QR files and documentation.		
—(S//TK) We conducted a thorough inquiry in the matter, including interviews of the current and former Intelligence Oversight (IO) officers, Operations Chiefs and other individuals knowledgeable of the QR records retention policies and practices at We also queried the NSA Office of General Counsel regarding legal advice, if any, which may have been rendered to in the matter. Finally, we conducted additional queries to determine if the practices currently employed at are consistent with those at other field sites. We concluded that that no laws or regulations were violated in the matter, and that the current QR records-keeping practices at are consistent with those of other field sites.	P.L.	86-36
(S#TK) The inquiry revealed that the IO officer at		
unilaterally determined to purge the QR files of documents relating to the		
inadvertent collection of U.S. person communications that you had reviewed during the		
Joint Inspection. The IO officer stated that when he reviewed the files after		
the Inspection, he found miscellaneous documents going back "at least ten years" that		
related to inadvertent collections of U.S. person communications, even though the		
intercepts themselves were immediately destroyed upon recognition.		
(S//TK) The IO officer stated that he was not directed or advised by anyone from		
or NSA Headquarters to destroy the documents; rather he made the decision based		
on his experience and knowledge of QR records-keeping practices and regulations. The	•	
IO officer's statement is supported by witness testimony and other evidence collected		
during our inquiry. The NSA Office of General Counsel had no record or recollection of		
advice to the IO officer or to in this matter. Nor do the IO officers we interviewed.		

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(S//TK) As you are aware, there are no requirements under Executive Order 12333 and USSID 18 to retain documentation relating to inadvertent collections of U.S. person communications that have been destroyed upon recognition; nor do they exist under the NSA OIG Procedures for the E.O. 12333 Quarterly Reporting, or under the internal Executive Order 12333 Quarterly Reporting Procedures.	,	
(S/FK) To the contrary, we found that the NSA Signals Intelligence Directorate Office of Compliance (SID OC) supported the IO officer's actions, after the fact, advising that when U.S. person communications are destroyed upon recognition, a record should not be created to document the incident. This advice is consistent with applicable law and policy.	P.L. {	36-36
(SIFTK) We contacted several field sites to determine the practices for maintaining QR files. All the sites reported that they maintained QRs electronically. A few also maintained hard copies of QRs and back up documentation of potential violations of E.O. 12333 and USSID 18 that were reported to the NSA Office of General Counsel and the NSA OIG. None of the sites retained documentation, either electronically or on paper, of inadvertent collection of U.S. person communications when the intercepts were destroyed. Accordingly, we find the current practice followed at to be consistent with the practice followed at other field sites.	-	
(S/FK) During the Joint IG Reinspection atin September 2002, team members reviewed the IO QR files, both hard copy and electronic. They found that the files contained copies of the QRs and back-up documentation relating to reportable violations from 1997. Based on our inquiry, we consider the current records retention practices at to be in accordance with applicable law and NSA regulations.		
-(S//TK)-Thank you for bringing this matter to our attention. If you have any questions, please contact me or at 963-0921(S).		
Senior Assistant Inspector General for Investigations	P.L.	86-36